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C O N F I D E N T I A L BRATISLAVA 000265

SIPDIS

STATE FOR L/LEI KENNETH PROPP
DOJ/OIA FOR DEBORAH GAYNUS
USEU FOR MARK RICHARD
PARIS FOR KENNETH HARRIS

E.O. 12958: DECL: 03/21/2015

TAGS: [KJUS](#) [PREL](#) [PHUM](#) [LO](#)

SUBJECT: MOJ THOUGHTS ON DRAFT TEXT OF EXTRADITION TREATY

Classified By: CDA Scott N. Thayer for reasons 1.5 (b) and (d).

1. (C) Summary: Emboffs continue to press Slovak officials for a reaction to the draft bilateral extradition treaty we gave them in December 2004. Nonetheless, the GOS still has not made a definitive decision on whether to commit to extradite Slovak nationals to the U.S. On March 30, Justice Minister Daniel Lipsic told Charge d'Affaires he would look at the text, discuss it with his staff, and raise the issue at the cabinet meeting the week of April 4. End summary.

2. (C) Polec chief met March 21 with MOJ Director for Judicial Cooperation Branislav Bohacik to learn the likely GOS response to the U.S. proposed text for a new bilateral extradition treaty. She emphasized the need for a signal on GOS willingness to extradite nationals to the U.S. before the April 15 negotiations in Brussels. Bohacik said the current wording of Article 3, "Extradition shall not be refused based on the nationality of the person sought," would not be acceptable to members of Parliament who would eventually have to ratify the treaty. Therefore, the MOJ wanted to propose language to make Article 3 "more flexible."

3. (C) Polec chief asked whether extradition of Slovak nationals to the U.S. had been discussed in the cabinet or among the four political parties in the governing coalition, since it was obviously a question of political will. Bohacik said that the draft text has been shared at the working levels in the Ministry of Justice, Ministry of Foreign Affairs, General Prosecutor's Office (this is an independent entity and is not under the MOJ's control), and Ministry of Interior. He said that the cabinet should approve a mandate for this group to negotiate the treaty at the beginning of April, but that so far there had been no discussions "at the political level."

4. (C) Bohacik's statements aside, emboffs have been engaging ministers and politicians on the extradition issue for several months. Before he departed post, the former Ambassador raised extradition of Slovak nationals with the ministers of foreign affairs and justice. Charge d'Affaires has continued to discuss it, most recently with both Foreign Minister Kukan and Prime Minister Dzurinda's advisor Milan Jezovica the week of March 21. Polec chief has raised the issue in conversations with politicians from governing parties. None has reacted with an immediate "no." On the other hand, we still don't have a definitive "yes." In the meantime, GOS legal experts are analyzing the text without a political mandate to proceed.

5. (C) Charge d'Affaires talked to Justice Minister Lipsic March 30 to once again stress the need for a decision on Article 3 before the scheduled April 15 talks on extradition and mutual legal assistance in Brussels. Lipsic promised to look at the draft treaty, discuss it with his staff, and raise the issue at the cabinet meeting the week of April 4.

6. (C) Despite his continued reservations about Article 3, Bohacik insisted the GOS wanted a full bilateral extradition treaty and a full bilateral mutual legal assistance treaty. He said we should not let the opportunity pass to have legal arrangements in place to guarantee our cooperation for the next 50 years. Polec chief explained that without an agreement to extradite nationals from the Slovak side, we would instead sign only a bilateral instrument to the U.S.-EU extradition agreement. In addition, we did not have the resources to work on a full MLAT with Slovakia at this time. Bohacik responded that Slovakia would be willing to provide a draft MLAT text for the U.S. to consider.

7. (C) Bohacik shared his thoughts on several other aspects of the draft treaty, which the U.S. may need to consider should the two sides proceed to negotiate. (Note: These are only his initial reactions and do not include comments from the other ministries studying the text.)

The Title: Treaties are not agreements between governments, but countries. Slovakia would want the title to be "Extradition Treaty Between the United States of America and the Slovak Republic."

Article 5.2: Bohacik had some concerns. For example, if the Slovak President were to grant amnesty to an individual for a certain crime, Slovakia would not agree to extradite that individual for prosecution elsewhere.

Article 6: Regarding lapse of time, Slovakia would not violate its own laws on statute of limitations.

Article 7: The language should be changed to make clear the fact that Slovakia does not apply the death penalty.

Article 8.1: Bohacik said that Slovakia would prefer not to limit requests exclusively to diplomatic channels. He suggested language along the lines of standard EU provisions calling for communication between "central authorities, diplomatic channels not excluded." This would allow flexibility for faster action should it be warranted.

Article 8.3.a: Slovak law requires original documents or "certified" copies.

Article 8.4.a. See comment on Article 8.3.a. A statement by the judicial authority would not be sufficient; Slovakia would need a certified copy of conviction.

Article 8.5: Fill in the blank with Ministry of Justice. Again, Bohacik advocated allowing for direct exchange of the original request between U.S. DOJ and Slovak MOJ, as well as the additional documentation.

Article 9: Slovak ministries don't have seals.

Article 11.1: Bohacik agreed with requests for provisional arrest directly through DOJ-MOJ channels.

Article 11.4: The language may have to be changed slightly. Slovak law allows for 18 days provisional arrest and 40 days custody pending extradition.

Article 12.2: Bohacik expressed some reluctance about providing explanations for denial in every case, but was vague in his reasoning.

Article 14.2 and 14.3: Requests for extradition made by several states are governed by EU rules.

Article 19.1: As explained above, the General Prosecutor's office operates independently from the Ministry of Justice. The GOS will need to clarify internal procedures.

THAYER

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